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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,752	10/03/2000	W. James Jackson	2479.0050000	5261

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

FORD, VANESSA L

ART UNIT PAPER NUMBER

1645

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060928

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

NOTICE OF A NON-RESPONSIVE AMENDMENT


The reply filed on July 10, 2006 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant's Response is non-compliant for the following reasons:

- 1) Applicant was asked to elect one species of SEQ ID No. to be examined with the application in the species election mailed May 9, 2006. However, Applicant has elected SEQ ID NOS: 5, 6, 7, 8, 9, 10, 11, 12, 21 and 22 to be examined in this application.
- 2) Applicant asserts that they are entitled to at least ten sequences to be searched in the present application. It should be remembered that the MPEP at section 803.04 states "...in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction". Therefore, the upper limit of sequences to be examined in most cases in a patent application is ten sequences. Applicant is reminded that SEQ ID Nos. 1 and 2 have already been searched and considered in examination of this application. Thus, if the Examiner were to consider additional sequences to be examined in this application only eight additional sequences may have the possibility of being examined in this application. If Applicant were afforded her request of the ten additional sequences, twelve sequences would ultimately be examined in this application, which exceeds the limit of up to ten sequences that may be examined in a single application.
- 3) Applicant argues that searching the species of the present invention (e.g. SEQ ID NOS. 5, 6, 7, 8, 9, 10, 11, 12, 21 and 22) would not be a serious search burden on the Examiner because the species are all fragments of SEQ ID NO:2 and the search for SEQ ID NO:2 will reveal any fragments thereof. The Examiner disagrees with this assertion because a search ID NO:2 would not reveal any and all fragments or epitopes that are within the amino acid sequence as set forth in SEQ ID NO:2. Searching specific fragments of SEQ ID No: 2 (e.g. SEQ ID Nos. 5, 6, 7, 8, 9, 10, 11, 12, 21 and 22) would require different search and consideration. It should be noted that the additional sequences set forth specific fragments of SEQ ID NO:2. A search of SEQ ID NO:2 would not necessarily reveal the specific fragments of SEQ ID NO:2 as set forth in the additional sequences.
- 4) It should be noted that the claims recite "open claim language" and for example, claim 108 recites "...an isolated putative membrane protein E (PMPE) polypeptide of Chlamydia ssp. comprising an amino acid sequence of SEQ ID NOS. 5-22". Since the claim language is open "an amino acid sequence" reads on a fragment or something less than the whole amino acid sequence as set forth in any given SEQ ID NO claimed. For example, an amino acid sequence of SEQ ID NO: 7, is a fragment of SEQ ID NO:7.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanessa L. Ford whose telephone number is (571) 272-0857. The examiner can normally be reached on 9 am- 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Albert Navarro can be reached on (571) 272-0861. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Vanessa L. Ford
Biotechnology Patent Examiner
September 28, 2006


NITA MINNIFIELD
PRIMARY EXAMINER